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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/635,358      | 08/09/2000  | Rebecca E. Whitmore  | 013550-129          | 5915             |

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EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/635,358

Applicant(s)

WHITMORE ET AL.

Examiner

Victor S Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.
3. The Examiner acknowledges that a signed copy of the declaration filed on November 7, 2000 had previously been entered into the record.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In newly amended claim 1, lines 2-3, the newly added phrase "substance being exposed" is vague and indefinite, i.e., it is not understood why an adhesive coated on a sandwich wrap which is then adhered to another part of the wrap can be inherently "exposed" as an outer layer for sealing wrapped sandwiches, or anything else.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Money (US 6016950).

Money's invention is directed to a wrapper, which provides a flexible food wrap having a layer of heat sealable adhesive thereon, which is capable of being heat sealed to form an enclosure for the food product to fully protect it (column 4, lines 31-35), which is substantially all that the independent claim requires.

Additionally, Money further teaches forming a wrapper by applying adhesive to a web of sheet material at spaced locations along one edge of the web and along pairs of curved convergent lines within the body of the web, and folding the web to form a flattened sleeve with the edge portions of the web overlying each other, heat sealing the ends of the edge portions together and heat sealing the sides of the sleeve together (column 1, lines 53-67). Further, it should be noted that in claim 1 the newly added recitation "the heat sealable substance being exposed wherein the heat sealable

substance can be brought into sealing engagement with another portion of the wrap upon being wrapped around a sandwich" does not add any weight to the structure of the instant claimed invention to distinguish it from Money's disclosure.

For claims 2-4, Money teaches that the wrapper is formed out of paper, coated paper, printed paper, card or plastics material (column 3, lines 52-53). It is believed that the coated paper inherently encompasses a multiply sheet formed of paper and a polymer film.

For newly amended claim 5, in Fig. 1 Money teaches that the corners 12b of the edge portions are secured together by patches of adhesive 16 applied to one edge portion of the blank, and the sides of the sleeve are adhered together along curved lines disposed in a generally diamond shape in a central region of the sleeve by curved bands 17, 18, of adhesive pre-applied to the blank (column 2, lines 56-65). Additionally, Fig. 2 clearly shows that the adhesive defines a sandwich receiving region.

Claims lack novelty.

8. Claims 6-8 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Money (US 6016950).

For claims 6-7, although Money does not expressly teach that the heat sealable substance is coated along additional edges of the sandwich wrap, it is believed that applying adhesive in suitable geometric arrangement is either inherently disclosed by Money, or an obvious optimization of adhesive properties to one of ordinary skill of the art. Note also as evidence the state of the art Leander (US 2510120), which teaches

that laying various shapes and forms of adhesive strips on a substrate at suitable locations is well within the ordinary skill in the art (Figs. 1 and 2).

For claim 8, although Money does not expressly teach a coating of release agent on the opposite side of the sheet, the Examiner notes that coating a release agent on the opposite of an adhesive article is old and convention. As such, it is believed that the release coating is either inherently disclosed by Money, or an obvious modification to one skilled in the adhesive art, motivated by the desire to prevent blocking of the adhesive sheets.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC  
May 1, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300-  
1700

*Daniel Zinker*